

STATE OF MICHIGAN 36TH JUDICIAL CIRCUIT VAN BUREN COUNTY	ADMINISTRATIVE ORDER RE:FRIEND OF COURT CREDIT DELETION	ADMINISTRATIVE NUMBER 1993-2
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INTRODUCTORY

The Court having reviewed Pellar v Pellar, 178 Mich App 29, 443 NW 2d 427, (1989); the Court being further advised that accounts reflecting credit balances on support accounts will be impractical under the Child Support Enforcement System (CSES) when instituted in the Van Buren County Friend of the Court Office; and the Court having authority pursuant to MCR 8.112 (B) to adopt a regulation to meet the needs of the Court.

IT IS ORDERED:

1. That the Office of the Friend of the Court shall identify cases in which payers currently show a credit balance exceeding the amount of two weeks support.
2. That the Office of the Friend of the Court shall notify each payor by mailing notice to the payor's last known address by first class mail 1) that the account reflects a credit balance; 2) that 60 days from the date of the notice the Friend of the Court Office shall delete any credit balance exceeding the amount of support remaining due for that month; 3) that the payor may petition the court for use of the credit by filing a petition and requesting a hearing; and 4) that forms and instructions for requesting use of the credit may be obtained from the Office of the Friend of the Court.
3. That the Office of the Friend of the Court shall notify payers by publishing notice in at least one newspaper having general circulation in the County of Van Buren of 1) the changes in the accounting system; 2) the opportunity to petition the court for use of the credit; and 3) that forms and instructions for requesting use of the credit may be obtained from the Office of the Friend of the Court.
4. That the Office of the Friend of the court shall make forms and instructions available to payers to file an objection to the deletion of the credit and to request a hearing.
5. If a payor files a petition after the 60 day period the court shall permit a hearing on the petition only if the petitioner shows that he or she did not receive the notice provided for in #2, or #3 above, and that exigent circumstances prevented him or her from filing a proper objection. Exigent circumstances does not include a situation where notice was mailed to the payor's last known address and the payor did not keep the Friend of the Court informed of a change in address.

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RE:FRIEND OF COURT
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6. That hearings on petitions shall be heard by the Friend of the Court Referee assigned to the case.
7. That 60 days after the date of the required notice, the Office of the Friend of the Court may adjust accounts accordingly where a credit balance exists and no petition was filed.
8. That this order shall be effective October 1, 1993.

Signed and dated this 31st day of August, 1993.



WILLIAM C. BUHL, CHIEF CIRCUIT JUDGE

August 9, 1993

(insert name and address of payor)

Re: Notice of Credit Balance

Dear Mr. or Ms. Payor:

Future changes in the Friend of the Court's accounting system will not allow a credit balance to appear on your account. As of (insert date), the Friend of the Court records indicate that you have a credit of (\$ insert amount) on your account in the above-referenced case.

Current Michigan case law provides that voluntary overpayment, even if made under a mistaken belief as to their legal consequences, do not entitle the payer to have a credit applied to future amounts of support owing. Because there may be exceptions to this rule, you have a right to claim that your credit should be retained. To assert this right, you must petition the court within 60 days from the date of this letter.

Petitions and instructions for filing a petition and requesting a hearing may be obtained from the Friend of the Court office. Requesting that the forms be mailed to you, does not preserve your rights. The petition and a notice of hearing must be filed with the Van Buren County Clerk within 60 days from the date of this letter. If a petition and notice of hearing are not filed within this time, any credit balance will be deleted from your account.

Sincerely,

Friend of the Court Office

NOTICE TO CHILD SUPPORT/ALIMONY PAYERS IN VAN BUREN COUNTY

The Van Buren County Friend of the Court Office will be instituting the Child Support Enforcement System (CSES) in its Office, in the near future. The accounting system of CSES will not allow an account to carry a credit balance which exceeds support due in the following month.

On (insert date) the Van Buren County Friend of the Court Office will delete credit balances shown on a child support or alimony account which exceed the amount of support due in the following month. This follows Michigan law which provides that voluntary overpayment, even if made under a mistaken belief as to their legal consequences, do not entitle a payer to have a credit applied to future amounts of support owing.

If you 1) pay child support and/or alimony through the Van Buren County Friend of the Court Office, 2) currently have a credit balance on your account, and 3) object to deletion of the credit balance, you must petition the Friend of the Court Office to request that the credit be applied to your account, and request a hearing. Petitions and instructions for filing petitions, and scheduling a hearing may be obtained from the Friend of the Court Office. Your petition and notice of hearing must comply with Court rules and must be filed within 60 days from the date of this notice.
